



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

MNSD, MNDC, FF

### Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenants in which the Tenants applied for a monetary Order for the return of the security deposit and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on, or about, August 20, 2018 the Application for Dispute Resolution, the Notice of Hearing, and documents the Tenants submitted with the Application were personally served to a property manager with the initials "AC", who has acted on behalf of the Landlord during this tenancy. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89(1)(b) of the *Residential Tenancy Act (Act)*; however the Landlord did not appear at the hearing. As the Application for Dispute Resolution and the Notice of Hearing were properly served to the Landlord, the hearing proceeded in the absence of the Landlord.

### Issue(s) to be Decided:

Are the Tenants entitled to the return of security deposit?

### Background and Evidence:

The Tenant stated that:

- a security deposit of \$500.00 was paid;
- this tenancy ended on February 28, 2018;
- the Tenants provided a forwarding address, in writing, on January 31, 2018 when they provided the Landlord with written notice of their intent to vacate the rental unit;

- the Tenants did not authorize the Landlord to retain any portion of the security deposit;
- the Landlord did not return any portion of the security deposit; and
- the Landlord did not file an Application for Dispute Resolution claiming against the security deposit.

Analysis:

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or file an Application for Dispute Resolution claiming against the deposits.

On the basis of the undisputed evidence I find that the Landlord failed to comply with section 38(1) of the *Act*, as the Landlord has not repaid the security deposit or filed an Application for Dispute Resolution and more than 15 days has passed since the tenancy ended and the forwarding address was received.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did not comply with section 38(1) of the *Act*, I find that the Landlord must pay the Tenants double the security deposit.

I find that the Tenant's Application for Dispute Resolution has merit and that the Tenants are entitled to recover the fee paid to file this Application.

Conclusion:

The Tenants have established a monetary claim of \$1,100.00, which includes double the security deposit of \$500.00 and \$100.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 17, 2018

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Residential Tenancy Branch